

CITY OF NEWBERG COUNCIL MINUTES
APRIL 16, 2012
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)

A work session was held prior to the meeting. An Executive Session was held pursuant to ORS 192.660(2)(i) relating to the performance review of the city manager. All Councilors and the Mayor were present; no action was taken and no decisions were made.

I. CALL MEETING TO ORDER

Mayor Bob Andrews called the meeting to order at 7:04 PM.

II. ROLL CALL

Members

Present:	Mayor Bob Andrews	Denise Bacon	Stephen McKinney	Bart Rierson
	Marc Shelton	Wade Witherspoon	Ryan Howard	

Staff

Present:	Daniel Danicic, City Manager	Terrence Mahr, City Attorney
	Barton Brierley, Planning and Building Director	Jay Harris, City Engineer
	David Beam, Economic Development Coordinator	Norma I. Alley, City Recorder
		Jennifer Nelson, Deputy City Recorder

Others

Present: Jeanie Sandall, William Kotz, and Chuck Zickefoose

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

IV. SPECIAL PRESENTATIONS

1. Consider a motion approving a proclamation declaring April 15-21, 2012, as National Volunteer Week.

MOTION: Shelton/McKinney approving a proclamation declaring April 15-21, 2012, as National Volunteer Week. Motion carried (7 Yes/0 No).
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2. Presentation of the "If I Were Mayor..." Contest First Place Winners.

Mayor Andrews presented certificates and savings bonds to the winners. Miss Mayi Nadora received 1st place for her poster and Miss Anne Rolfe received 1st place for her essay.

V. CITY MANAGER'S REPORT

Mr. Daniel Danicic, City Manager, reported on the success of the 2012 Camellia Festival with 1,500 to 2,000 people attending and making an impression on the president of the American Camellia Society with hopes of holding their 2016 national festival in Newberg. The proposed budget has been distributed and posted online; the first Budget Committee meeting will be a Town Hall held on April 24, 2012, in the Public Safety Building (PSB) at 7:00 PM. The Local Governments Dinner will be held this week hosted by the City of Sheridan on April 19, 2012, and Council President Denise Bacon will be giving Newberg's report. He gave an update on the

animal shelter, plumbing has been installed and they should be finished pouring the concrete slab on Friday. He has also been meeting with representatives from the Newberg Animal Shelter Friends (NASF) on a weekly basis working through the current work and the phasing after construction. Finally, he announced he would be out of the office for the remainder of the week.

VI. PUBLIC COMMENTS

Ms. Jeannie Sandall announced her write-in candidacy for Yamhill County Assessor stating she worked there for twenty years, leaving in August, 2010, and described the office as a disaster with people out sick from stress and the inability to work in the current conditions. She felt if she is successful she would put the employees and the public first and start making cuts from the top including her own salary. She said you do not have a working office without employees.

Mr. William Kotz requested the Council consider naming a street in Newberg "Drea's Way" to honor his granddaughter, Nicole Andrea Post, who lost her life in Junction City last August, 2011. It was the families' hope that every time someone writes the street name or sees it posted there would be a remembrance of his granddaughter. He also thanked the Chehalem Park and Recreation District (CPRD) for the commemorative bench they installed for her. He has lived here for eleven years and loves Newberg and hoped the Council would consider this request.

Councilor Wade Witherspoon asked if they had a specific location in mind with a currently named street. Mr. Kotz replied they were not requesting a street name to be changed, just that the next available street in Newberg would be named in her honor.

Mayor Andrews thanked him for bringing it forward, stated staff will research the possibility, and contact him with the results.

VII. CONSENT CALENDAR

Consider a motion approving the March 19, 2012, City Council meeting minutes.

TIME – 7:27 PM

MOTION: Witherspoon/Shelton approving the Consent Calendar including the City Council minutes from March 19, 2012. Motion carried (7 Yes/0 No).
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VIII. PUBLIC HEARINGS

Public Hearing and discussion on **Ordinance No. 2012-2752** amending the Newberg Municipal Code pertaining to the Citizens' Rate Review Committee section allowing utility rates and/or fee increase to be referred to the voters through the State referendum process.

TIME – 7:28 PM

Mayor Andrews introduced the legislative hearing in the first reading and called for any conflicts of interest or abstentions; none appeared.

Mr. Mahr handed out and presented the staff report (see official meeting packet for full report).

Mayor Andrews asked if there is an initiative with sufficient signatures does council have to accept it. Mr. Mahr replied when talking about a referendum petition, when the matter is presented with the correct number of signatures the Council can choose to either put out a competing measure, revoke/repeal what action took place, or they can send it to election; it cannot be ignored.

Mr. Mahr continued by explaining the differences between the two alternatives offered. The first would be that any utility rate increases, if the referendum process is used and the proper signatures gathered, can be referred to the voters. The second is to state that anything above a certain percent is subject to referendum; that portion has to be set for what is subject to referendum. Each alternative would not take effect for thirty days and would have to have 10% of the electorate (currently 1,020). Mr. Mahr said he asked other cities if they have automatic increases and other than Estacada at 3%, there were none. The Consumer Price Index (CPI) is 2.9% for Portland and there is still the problem of having to pay for the election unless it is held in an even numbered year in the May primary or November general elections. He said he was asking for Council to give him direction for how they would like the final ordinance prepared.

Councilor Marc Shelton spoke of the alternatives and the thirty day requirement to take an item to election, asking if the current rate review process would be able to meet election deadlines for a May ballot in the even years. Mr. Mahr stated decisions would need to be made within sixty days before the measure would need to be filed, then another thirty days for council to respond with a competing measure, then fifteen more days to give the County Clerk time to verify the signatures. Councilor Shelton continued by asking about implementing now versus postponing increases in regards to making the November election this year. Mr. Mahr replied implementing this now and reconsidering the rates in June would allow time to be put into the November election and if they wanted to wait they can even put an item on the ballot themselves. They continued briefly discussing how the repeal process would fit in with the deadlines and how to handle scenarios where increases do not occur until the second year of the rate cycle, which would be on an odd year without an available free election. Mr. Mahr said there is nothing in the law against using longer rate cycles other than the limitations can be more difficult. Mr. Danicic also suggested the discussions on rate increases can be decided to occur only in even years in case of opposition and since each rate is brought forth as a separate resolution, each can be handled differently.

Mayor Andrews opened the public testimony.

Mr. Chuck Zickefoose, Citizens' Rate Review Committee (CRRC) member, stated there is a third alternative available, which is to do nothing. He argued our process works well and gives opportunity for the public to come to regular meetings and town hall meetings. It allows people to express their opinions and the CRRC pay attention to those opinions; an example of this is that they are not recommending raising rates for the first year for water and wastewater as a result of public input. He suggested saving time and efforts by doing nothing.

Mayor Andrews closed the public testimony.

Mayor Andrews stated the City of Pendleton uses Consumer Price Index (CPI) as a base as well as another city he cannot remember; one is a flat CPI, the other is a CPI plus, and he believes it is fixed in Estacada. Mr. Mahr agreed Estacada applies the same to all fees. Mayor Andrews continued by stating many are moving in this direction for utilities because it allow for operations and maintenance (O&M) costs to be covered at a fixed percentage with the option of the public saying yes or no for other projects, which he supports. He asked for clarification from staff on the source of the CPI figure of 3.1%. Ms. Janelle Nordyke, Finance Director, stated it came from the Portland/Salem annual comparison from December, 2011, to December, 2010. Mayor Andrews said they need to specify what CPI is being used whether it is year end or the 2nd half of 2011 and recommended using an index rather than a fixed percentage that allows for rise and fall based on the economy and suggested CPI plus to factor in for additional amounts.

Councilor Ryan Howard felt like this is a solution looking for a problem rather than a solution to a problem as we already have a very public system of rate review with our Citizens' Rate Review Committee (CRRC). The City has said this is the way for the public to participate in the process. If the public is dissatisfied by Council beyond that, than they can vote someone else in or recall the present Council. He said he learned from the election that 34% of those voting want five members of the public to put any fee, rate, or charge to a vote of the

people and they are aware there is a constituency that wants a say in everything we do, but it is not the best way to operate and the division of power is in the Charter. He did not see a need to change the system.

Councilor Witherspoon said he had additional issues with the section that mentioned the city has debt obligations, which make it necessary for rate increases and the possibility of excluding those from affect by referendum. Mr. Mahr replied they should consider if they do not have this it will not prevent building facilities; more things could be put in to fine tune Council's desire, but the more fine tuning the more complicated the measure becomes. He said the Finance Director can isolate funds in order to maintain debt obligation.

Mayor Andrews asked about existing debt and if this precludes future debt from incurring, or if they can acquire debt anytime and it is excluded. Mr. Mahr said they do not know the answer to this; he has asked a City of Sheridan representative about this, but added they have not heard from bonding attorneys that no one will loan money.

Councilor Bart Rierson said he was torn because he can see how having a process in place could present a problem if the Department of Environmental Quality (DEQ) came up with mandatory provisions on top of the other regulations they already have to comply with causing infrastructure improvements to exceed costs. At the same time, he does like the State referendum process and is concerned the next time an increase occurs that if they do not have a process in place they may see a better written initiative petition. He said the election told him that 34% of the voters said they would like to have a say in taxes and having something in place could help to have a more reasonable expectation of 10% being required rather than only five citizens to petition. Also, having an index may make rate increases more palatable and less likely to be challenged; he would like to have a process in place.

Councilor Shelton spoke of the local level providing the best opportunity for these decisions to be made and said he did not agree with alternative #1, but something more reasonable would be to keep O&M at CPI and anything above that would have to be explained to the community to make a decision. He also felt they needed to write in a way that this occurs in even years only so they do not back themselves into paying for an election. He said they would not be doing a good job if they are not anticipating what could happen next time.

Councilor Stephen McKinney agreed with Councilor Howard and Mr. Zickefoose, pointing out the City Charter was approved by a ballot vote. He said this City is doing more and there are more ways for people to have a say in the process than other communities. He noted that several months ago, CPI was a negative number and during a time of consistency CPI may offer an accurate tool, but not here. He felt they could draw on the history of the town and the Charter that the League of Oregon Cities (LOC) championed in more than one community. He felt if only 1,000 voters were required to sign that would be 500 less that what was required during the last process. He was proud the citizens recognized a bad idea and they were able to vindicate the way we give this town more say than other communities in the process.

Mr. Mahr spoke of some of the history of the establishment of the CRRC process and the limits placed on Council authority with increases having to be referred back to CRRC and such. The addition of the idea of referring a decision to a vote left the City vulnerable to the initiative and this is one provision they may want to consider putting back in.

Councilor Denise Bacon said what people were voting against was the five person number and it takes very motivated people to get one thousand signatures in thirty days; she felt that was a huge safety net.

Councilor Howard stated he sees the City having several years of higher than CPI rate increases because they have obligated themselves to a course of action to build for population increases. He does see them having rate increases, not because they are choosing to do projects, but because of other complicated decisions and he did not feel they have the extra time that would be needed to explain this every time there is fervor over rate

increases. He agrees that over 12-15% are in favor of citizen participation, but this does not require something like this in place and they can easily get run down explaining this every year. He said he liked to defend himself as a representative rather than on each decision made. If this goes to referendum then it is not just Council speaking to concerns, it obligates them to go out and speak on and defend their decisions to the entire City. Mayor Andrews said he heard his concerns, but he did not agree with him.

Councilor Rierson asked about capacity improvements being paid by System Development Charges (SDCs) from new residents. Mr. Danicic replied this was correct. Councilor Rierson continued by stating it is complicated math and much of the public do not want growth because they fear they will have to pay for it; he felt it was important to separate this because it is confusing.

Mayor Andrews said there was great merit in Councilors Howard and McKinney's position and there were no strong demonstrations of need before; he wondered if they needed to look ahead and plan or not. He felt this amendment would take the politics out of the CRRC to study the complete spectrum based on a forecast and make recommendations based on the needs we have. He wondered if this was fair to hold them to determine this. He suggested a CPI plus three, which does not have to be spent, but allows the option to use and plan on it as they do with property taxes. If they wish to exceed this, then they can put it to a public vote on a two year cycle like this one where there is nothing increasing in the first year, but then in the second if they continue with biannual rate setting. He agrees the people have a voice but they say no one pays attention to them so they want to vote. He said he could not go for the first alternative, but was leaning towards the second alternative with some clean-up. He is concerned about future debt incurred, but did not want to address this yet.

Councilor Rierson said he also could not support the first alternative and he likes the CPI plus with having an alternative like #2 to give another level of checks and balances. We did not manage this well in the past for rates which is why we have had these problems. If we have increases, we have an obligation to explain them to the voters. If there is no alternative, then they will likely end up with something not well thought out for the City when another referendum comes before the electorate.

Councilor McKinney argued if it is not broke why fix it, saying when they accept funding or Federal money to build something it comes with obligations, which rates have to reflect these obligations. Judge Collins of Yamhill County Circuit Court has ruled on this obligation in a case involving the City of Sheridan. Now others now have a legal precedent for indebtedness, but looking forward, he would hate citizens left with the perception that the use of CPI is all we can get.

Mr. Danicic added one of the recommendations coming to them in June is the implementation date to change from July to January so the natural cycle is beginning to look at the next two years fitting in with the even years.

<p>MOTION: Andrews/Rierson to add language to alternative #2 including the Consumer Price Index (CPI) to be used at a CPI plus three for Ordinance No. 2012-2752. Motion carried (7 Yes/0 No).</p>
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Mayor Andrews closed the public hearing, stating the written record only will be open for seven days. He recessed at 8:42 PM and reconvened at 8:47 PM.

IX. CONTINUED BUSINESS

Consider a motion adopting **Resolution No. 2012-2988** establishing policies and procedures for administration of the Affordable Housing Trust Fund Bylaws.

TIME – 8:47 PM

Mayor Andrews announced an outstanding motion made on March 19, 2012, by Councilors Howard and Rierson before the item was tabled remained on the floor and would need to be addressed after the staff report.

Mr. David Beam, Economic Development Coordinator, presented the staff report including a PowerPoint and a recommended change to Council, which was included into the record, to remove the part in section 1.3 that states the limits are defined by the Planning Director and replace it with the definition established by the Department of Housing and Urban Development income limits and clarified all referrals to “bylaws” should be replaced with “policies and procedures” for the Affordable Housing Trust Fund (see official meeting packet for full report).

Councilor Witherspoon referred to page 30 in the third paragraph and his concerns for private landlords raising rent; he asked how just getting people in there that qualify was a solution. Councilor Rierson stated the housing designation for low income places limits on what they can charge for rent, so by requiring qualifying families be in there, the rent cannot be raised.

Councilor Rierson wondered if other agencies providing assistance also do so for the moderate income category as well as the low, very low, and extremely low groups. He was concerned about helping the average income groups when there is such a huge chunk of people in the very low income categories. Councilor Bacon responded by saying this group is not being served at all with the section 8 vouchers being closed for years with huge waiting lists, this leaves no help at all for the moderate group with housing levels being so expensive and being so overwhelmed with the low and very low levels.

Mr. Beam concluded his staff report by noting the funding sources were included, which were not in the first proposal as well as a new budget number so existing housing rehabilitation funds could be transferred in as seed money and any new money approved by Council.

MOTION FROM MARCH 19, 2012: Howard/Rierson withdrew the motion to adopt **Resolution No. 2012-2988**. Motion withdrawn.

Mayor Andrews recommended ending the language “for Yamhill County, Oregon” at the end of the sentence in 3.5.k.

Councilor Rierson stated he was uncomfortable with the inclusion of the moderate group here although he was not opposed to considering it at a later time.

Councilor Howard said he understood his concern and referred to section 8.5, and one of the criteria for determination being the income level, so it is targeted and weighted towards lower income. Councilor Rierson said he was more comfortable with that.

Councilor McKinney said he was still uncomfortable with this as written because there are continually more hoops and layers making renting homes difficult as well as city and staff time involved. He said he is just uncomfortable with this type of legislation.

MOTION: Rierson/Bacon to adopt **Resolution No. 2012-2988** establishing policies and procedures for administration of the Affordable Housing Trust Fund amended to include staff corrections made to 1.3 and adding the language “for Yamhill County, Oregon” at the end of 3.5.k.

Mayor Andrews said he was concerned with the indexing issue, but with the addition of language in 1.3 of low and very low income categories and the weighting towards the lower income groups, he will vote yes.

Councilor Rierson also agreed the weighting towards lower income and the amendment to identify the mechanism made him more comfortable with just establishing a vessel to hold funding with future discussions

to come. He said Council identified affordable housing as a goal and established a task force to work hard on this and this is the first step, so he is happy to support this effort.

Councilor Shelton also pointed out nothing would go into this fund without Council approval and he would support it because of this.

VOTE: To adopt Resolution No. 2012-2988 as amended. Motion carried (7 Yes/0 No).
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X. NEW BUSINESS

1. Consider a motion adopting **Resolution No. 2012-2999** amending the downtown design guidelines to include a new inverted-U bicycle rack design in four colors.

TIME – 9:15 PM

Mr. Barton Brierley, Planning and Building Director, presented the staff report and recommended adoption (see official meeting packet for full report).

Councilor Shelton asked for a price comparison to the costs given in the 2011 presentation. Staff replied the cost for the inverted-U racks installed is \$171.00, the post and ring racks are \$238.00.

Councilor Howard spoke of his experience using the serpentine racks and pointed out reasons why inverted-U racks are better functionally.

MOTION: Howard/Rierson to adopt Resolution No. 2012-2999 amending the downtown design guidelines to include a new inverted-U bicycle rack design in four colors.

Councilor Rierson said he was disappointed the bicycle racks chosen during the downtown revitalization process were not as practical as they were aesthetic. He liked the functionality of the staples racks as well as the color options for style too; he supported the resolution.

VOTE: To adopt Resolution No. 2012-2999 . Motion carried (7 Yes/0 No).
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2. Consider a motion adopting **Resolution No. 2012-3000** approving a hardship request by the Foothills Water Company water district.

TIME – 9:28 PM

Mayor Andrews passed the roving gavel to Councilor Rierson who introduced the resolution.

Mr. Jay Harris, City Engineer, presented the staff report (see official meeting packet for full report).

Councilor Howard asked if the residents are billed at the springs class rate or included in springs customer class. Staff replied both statements are true.

Councilor Rierson asked if their rate is 1.5 times the city rate. Mr. Danicic replied it is actually higher because of cost sharing and annual increases.

Mayor Andrews said the four owners signed a petition requesting to be connected to the city system and would be temporarily provided until further action and asked if they would be a springs customer or on the city system. Staff replied they are springs system customers.

Councilor Rierson wanted to ensure the contract includes the City will not pump city water to them if they lose the current water source.

Mayor Andrews felt the reference to not overburden the springs, city supply, or system needs to be clarified; we do not wish to set precedence for others to migrate into our system immediately.

Councilor Rierson asked about springs water being disconnected from the city water system. Staff replied all springs have been disconnected from the city fed water system.

Mayor Andrews asked if SDCs were paid in 1963 by the water company for the master meter. Staff replied these were typically offset by credit to the master meter with SDCs, but to get a 4" meter agreements were probably made and can research this if needed.

Councilor Shelton asked if the letter in the packet would be attached and serves as the willingness of the residents to participate. Staff replied it does but they will come into a separate agreement with each resident and if issues cannot be resolved they will come back to Council.

Councilor Witherspoon asked about requirements for those in the Urban Growth Boundary (UGB) to be brought inside the city. Mr. Harris replied outside of this meeting with planning staff there may be other elements to consider with this and he would want to discuss this with them and the city attorney before moving in this direction. Councilor Witherspoon continued about one of the requirements for supplying water outside of the city being in a water district, but there is no district in this case and they are being billed individually so this needs to be addressed. Mr. Harris replied the agreement would have to supplant the water district and he would still need to work with the city attorney on that.

Councilor Shelton stated they are moving down a path that changes the relationship before we change the agreement by taking action on this. Mr. Mahr replied it does change the relationship and is moving in stages, first the hardship request then they redo the agreement.

Councilor Howard said he perceives this as just a change in where the bill is sent and is just an administrative difference. Mr. Mahr spoke of the historical processes regarding hardships and conflicts envisioned; he said they could bring something back as an interim policy but step one is to approve this and then bring back the agreements.

Councilor Rierson asked about infrastructure for new meters and the pipe sizes. Staff replied there were ¾" for domestic use only, with no agricultural use.

Councilor Bacon clarified we are only doing the hardship because the residents do not want to do the water district any longer and no one wants the responsibility. Staff replied this is correct, the homes are rented and no one is there to monitor, read the meters and send billing, and we are set up to do those here.

MOTION: Andrews/Shelton to adopt **Resolution No. 2012-3000** approving a hardship request by the Foothills Water Company water district with changes to the language distinctions between springs and city system. Motion carried (7 Yes/0 No).

XI. COUNCIL BUSINESS

TIME – 9:58 PM

Councilor Rierson mentioned discussions about the 2nd Street parking lot with Mike Ragsdale and how to pay for it; he felt a plan was needed and that it was a worthwhile project to explore.

Councilor McKinney added a project involving multiple stories could solve parking issues for the Cultural Center and other merchants to maximize the use of the space. He said it makes fundraising more complicated, but fits the purpose better.

Mr. Danicic said he shared in his manager's report the cost estimates for the lot as proposed being in the \$350-\$400,000.00 range. They are looking at funding opportunities through Federal exchange monies each year which can be allocated out of right-of-way expenditures, but the trade off is a road may not get paved. A parking garage would maximize space, but would also cost about \$20,000.00 per stall. He agreed a Local Improvement District (LID) or some sort of transportation impact fee allocation could work. He said he will come back and have them look at all the options as a package.


Mr. Mahr spoke of possible issues with Metro contracting ambulance services to County patients where we could have exclusives on transfers; this could have financial impacts and there will be a future report.

Councilor Bacon reported on the success of the Spanish-speaking emergency preparedness event they held.

XII. ADJOURNMENT

The meeting adjourned at 10:14 PM.

ADOPTED by the Newberg City Council this 21st day of May, 2012.



Norma I. Alley, MMC, City Recorder

ATTEST by the Mayor this 24th day of May, 2012.



Bob Andrews, Mayor